IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03/10/2002

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.5153 of 1997

V.Rajan .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Secretary
Housing and Urban Development Department
Fort St. George
Chennai-600 009.

2. The Chairman
Tamil Nadu Housing Board
Nandanam
Chennai-600 035. .. Respondents

Petition under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.S.Balasubramanian

For 1st respondent : Mr.D.Krishna Kumar
Special Govt. Pleader

For 2nd respondent : Mr.D.Veerasekaran

:ORDER
Admittedly, the land in Survey No.182/5 of Thiruvanmiyur Village was acquired from the petitioner by the second respondent-Housing Board. Contending that the said land was not utilised by the Tamil Nadu Housing Board and the scheme itself had already been completed, the petitioner made a representation on 20.6.1992 for restoration of his land located in Survey No.182/5, Thiruvanmiyur Village, acquired by the Tamil Nadu Housing Board, but the said request was rejected by the Tamil Nadu Housing Board by proceedings dated 18.7.1996, aggrieved by which, the petitioner seeks the issue of a writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings Letter No.41364/HB5(1)/ 92-96 and quash his order dated

18.7.1996 and direct the respondents to restore the petitioner's right to plot of land No.1 in Survey No.182/5 (182/5A1) of Thiruvanmiyur Village acquired for Thiruvanmiyur Neighbourhood Scheme of Tamil Nadu Housing Board.

2. It is not in dispute that the amount awarded for acquisition of the said land has been duly deposited to the credit of the petitioner in appropriate proceedings.

3. It is well settled in law that the Government has to consider the withdrawal of acquisition only on merits, but the Court cannot compel the Government to withdraw the acquisition proceedings or to restore the possession to the owner of the land, as held by the Apex Court in S.P.SUBRAMANIACHETTY V.KSRTC reported in AIR 1997 SC 2076.
4. If the land acquired from the petitioner by the Tamil Nadu Housing Board is not required for the purpose for which it was acquired, as contended by Mr.S.Balasubramanian, learned counsel for the petitioner, except to observe that the petitioner shall be at liberty to approach the Government under Section 48-B of the Land Acquisition Act, 18 94, for transfer of the land to the original owner, viz., the petitioner herein, and on such representation, to direct the respondentHousing Board to consider the same on merits under the provisions of Section 84(1) of the Tamil Nadu State Housing Board Act, 1961, read with Section 48-B of the Land Acquisition Act, 1894, and to pass appropriate order on merits, keeping in mind, the subservance of public interest, within thirty days from the date of receipt of a copy of this order, no further order is required in the above writ petition.

The writ petition is disposed of with the above directions. No costs. Consequently, W.P.M.P.No.8573 of 1997 is closed.

Index: Yes
Internet: Yes

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To:
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Chennai-600 009.

2. The Chairman
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